

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

LANDES BUCKHALTER,) NO. CV 08-6043-JVS (MAN)
)
 Petitioner,)
)
 v.) ORDER ACCEPTING FINDINGS AND
)
 LARRY SMALL, WARDEN,) RECOMMENDATIONS OF UNITED STATES
)
 Respondent.) MAGISTRATE JUDGE
)

Pursuant to 28 U.S.C. § 636, the Court has reviewed the Petition for Writ of Habeas Corpus ("Petition"), all of the records herein, the Report and Recommendation of United States Magistrate Judge ("Report"), and petitioner's Objection to the Report. The Court has conducted a *de novo* review of those portions of the Report to which objections have been stated in writing.

In his Objection to the Report, Petitioner purports to raise numerous new claims for habeas relief that were not alleged in the Petition. It is unclear that these belatedly-raised claims are unexhausted. A district court has discretion, but is not required, to

1 consider evidence or claims presented for the first time in objections
2 to a report and recommendation. See Brown v. Roe, 279 F.3d 742, 744-45
3 (9th Cir. 2002); United States v. Howell, 231 F.3d 615, 621-22 (9th Cir.
4 2000). The Court exercises its discretion and declines to consider the
5 newly-raised habeas claims set forth in the Objection.

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7 Having completed its review, the Court accepts the findings and
8 recommendations set forth in the Report. Accordingly, IT IS ORDERED
9 that: (1) the Petition is denied; and (2) Judgment shall be entered
10 dismissing this action with prejudice.

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12 IT IS FURTHER ORDERED that the Clerk serve copies of this Order and
13 the Judgment herein on the parties.

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15 LET JUDGMENT BE ENTERED ACCORDINGLY.

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17 DATED: February 7, 2012.

A handwritten signature in purple ink, reading "James V. Selna".

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20 JAMES V. SELNA
UNITED STATES DISTRICT JUDGE